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The Honorable Terry L. Myers

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UNITED STATES BANKRUPTCY COURT FOR THE
DISTRICT OF IDAHO

In re:

NO. 02-20218

FRANK L. CHAPIN and
SYDNEY L. GUTIERREZ-CHAPIN,

CREDITOR'S PLAN OF
REORGANIZATION

Debtors.

PLAN OF REORGANIZATION

cc: US Trustee
1/13/03

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14 UNITED STATES BANKRUPTCY COURT FOR THE
15 DISTRICT OF IDAHO

16 In re:

NO. 02-20218

18 FRANK L. CHAPIN and
19 SYDNEY L. GUTIERREZ-CHAPIN,
20
21 Debtors.

CREDITOR'S PLAN OF
REORGANIZATION

21 Frederick A. Leaf, M.D., a creditor ("Creditor"), proposes the following Plan of
22 Reorganization pursuant to Subchapter II of Chapter 11 of the Bankruptcy Code.
23

PLAN OF REORGANIZATION - 1

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1 2.3. ALLOWED SECURED CLAIM: An Allowed Claim that is a secured
2 claim against the Debtors determined in accordance with § 506(a)-(d) of the Bankruptcy Code.

3 2.4. AS SOON AS PRACTICABLE: Unless extended by Court order, within
4 thirty days following the occurrence of a triggering event.

5 2.5. BANKRUPTCY CODE or CODE: The Bankruptcy Code enacted
6 November 6, 1978, as set forth in Title 11 of the United States Code, and as amended thereafter.

7 2.6. BANKRUPTCY COURT or COURT: The United States Bankruptcy
8 Court for the District of Idaho, before which the Reorganization Case is pending, or if that Court
9 ceases to exercise jurisdiction over the Bankruptcy Case, the Court that does exercise
10 jurisdiction.

11 2.7. CLASS: A class of claims interests as defined in ARTICLE III of this
12 Plan.

13 2.8. CLOSING DATE: The date upon which the Bankruptcy Court enters the
14 Closing Order.

15 2.9. CLOSING ORDER: The order of the Bankruptcy Court closing the
16 Reorganization Case pursuant to § 350 of the Bankruptcy Code.

17 2.10. CONFIRMATION: The entry of the Order of Confirmation by the
18 Bankruptcy Court.

19 2.11. CONFIRMATION DATE: The date eleven (11) days after the date the
20 Bankruptcy Court enters the Order of Confirmation.

21 2.12. CREDITOR: When capitalized as "Creditor", this shall refer to Frederick
22 A. Leaf, M.D. Dr. Leaf is also referred to as the "Plan Proponent".
23

1 2.13. DEBTORS: FRANK L. CHAPIN and SYDNEY L. GUTIERREZ-
2 CHAPIN ("Chapin").

3 2.14. DEBTOR IN POSSESSION: The Debtors, when exercising their rights,
4 powers, and duties under § 1107(a) of the Bankruptcy Code in the Reorganization Case.

5 2.15. DISPUTED CLAIM: A filed or scheduled claim of an alleged creditor to
6 which a party in interest has filed an objection.

7 2.16. EFFECTIVE DATE: The first business day not less than ten (10) days
8 from and after the Confirmation Date when the Confirmation Order is no longer subject to
9 appeal or revision.

10 2.17. ESTATE: The Estate created pursuant to § 541 of the Bankruptcy Code.
11 As to those creditors holding Allowed Claims against the Debtors and the marital community,
12 the Estate is comprised of all of the Debtors' separate and all community property assets,
13 including the rents, profits, revenues and issues from any such property.

14 2.18. FINAL ORDER: An order or judgment of the Court as to which the time
15 for appeal has expired without notice of appeal having been filed or as to which any appeal there
16 from has been resolved.

17 2.19. FINAL PRIORITY CREDITOR DISTRIBUTION: The date on which the
18 last allowed Class 1 Claim and Unclassified Claims are paid.

19 2.20. FINANCIAL MANAGEMENT SERVICES, INC.: The Debtors' entire
20 interest in Financial Management Services, Inc.

21 2.21. FREDERICK A. LEAF, M.D.: The proponent of this Plan, also referred
22 to as the "Creditor" or "Plan Proponent".
23

1 2.22. HOODOO MOUNTAIN RANCHETTE TRUST: The Debtors' entire
2 interest in Hoodoo Mountain Ranchette Trust.

3 2.23. LIQUIDATING TRUST OR TRUST: The Trust that will be established
4 by the Plan Confirmation Order, charged with locating and liquidating all of the Debtors' assets
5 and administering the proceeds pursuant to the terms of the Confirmed Plan (the "Trust"). All
6 Trust assets shall be vested in the Debtors in name only. The provisions of the Plan and the
7 Confirmation Order shall describe the ability of the Trust to manage, administer and sell the
8 assets.

9 2.24. ORDER OF CONFIRMATION or CONFIRMATION ORDER: The
10 order of the Bankruptcy Court confirming the Plan pursuant to § 1129 of the Bankruptcy Code.

11 2.25. PLAN: This Plan of Reorganization in its present form or as it may be
12 amended or modified from time to time pursuant to order of the Bankruptcy Court.

13 2.26. POST-CONFIRMATION EXPENSES: All fees and expenses of
14 Professional Persons allowed by the Court which are incurred after the Effective Date and all
15 expenses, including the compensation of the Trustee and those persons necessary to carry out the
16 duties of the Liquidating Trust connected with its authorized business of liquidating all assets,
17 fixing and determining the allowability of exemptions and claims and making the distributions
18 called for under this Plan.

19 2.27. PRIORITY CREDITOR: The holders of allowed priority claims.

20 2.28. PROFESSIONAL PERSONS: Persons retained or to be compensated
21 pursuant to §§ 326, 327, 328, 330 and/or 1103 of the Bankruptcy Code.

22 2.29. REORGANIZATION CASE: The Chapter 11 case pending before the
23 Bankruptcy Court commenced by the Debtors, designated Case No. 02-20218.

1 2.30. S and F, LLC: The Debtors entire interest in S and F, LLC.

2 2.31. UNSECURED CLAIM: An Allowed Claim that is not an Allowed
3 Secured Claim.

4 **ARTICLE III - CLASSIFICATION OF CLAIMS AND INTERESTS**

5 3. All claims, as defined in § 101(5) of the Bankruptcy Code, against the Debtors
6 and all interests of the Debtors, as defined in §§ 101(16) and (17) of the Bankruptcy Code, are
7 classified as set forth herein. A claim is in a particular Class only to the extent it qualifies within
8 the definition of such Class and is in a different Class to the extent it qualifies within the
9 definition of such different Class.

10 3.1. Class 1 Secured Claims:

11 3.1.1. Class 1a: The Allowed Secured Claim of Internal Revenue
12 Service.

13 3.1.2. Class 1b: The Allowed Secured Claim of Bonner County Tax
14 Collector.

15 3.1.3. Class 1c: The Allowed Secured Claim of Ford Motor Credit.

16 3.2. Unsecured Priority Claims:

17 3.2.1 Class 2: All Allowed Unsecured Priority by claims against the
18 Debtors entitled to priority pursuant to § 507(1)(2), § 507(1)(8)(A), § 507(a)(8)(B) and
19 §507(a)(8)(D).

20 3.3. Unsecured Claims:

21 3.3.1. Class 3: All Allowed Unsecured Claims against the Debtors not
22 entitled to priority and not otherwise included in any other previous Class hereof.
23

1 3.4 Equity Claims:

2 3.4.1 Class 4: Any equity interest that the Debtors may have in Estate
3 assets after payment of all prior claims.

4 **ARTICLE IV - CLAIMS AND INTERESTS NOT**
5 **IMPAIRED BY THE PLAN**

6 The Allowed Claims of Class 1 and Class 2 are not impaired under this Plan. The
7 Allowed Claims of all other Classes are or may be impaired under the Plan.

8 **ARTICLE V - APPOINTMENT OF LIQUIDATING**
9 **TRUSTEE, AND POWERS THEREOF**

10 5.1. Effective upon Confirmation, a Liquidating Trustee ("Trustee") shall be
11 appointed by the Court. The Creditor shall submit the identity of the Proposed Trustee to the
12 Court with the Creditor's Ballot Report or as otherwise ordered by the Court.

13 5.2. Subject to the Trustee meeting such qualifications as may be required by
14 the United States Trustee, and such other conditions as required by the Court, the Trustee shall
15 remain in charge of the liquidation of the Debtors' assets and administration of this Plan until
16 discharged or replaced by Order of the Court.

17 5.3. The Trustee shall have immediate constructive possession of all of the
18 Debtors' assets wherever located. Without limitation, the Trustee shall be provided with
19 immediate access to all of the Debtors' physical and electronic books, records, financial
20 information, accounts of every nature and all other forms of data. The Debtors' shall cooperate
21 and provide full and unrestricted access to the Trustee, and shall cooperate by further providing
22 all asset locations, passwords, combinations and methods of access.

1 5.4. The Trustee shall immediately commence a full inventory of the Debtors'
2 assets wherever located, and the Trustee shall be entitled to conduct such investigation, as the
3 Trustee deems appropriate and necessary to locate such assets. Further, the Trustee shall be
4 given the following powers by the Order of Confirmation:

5 5.5. Duties of the Liquidating Trustee

6 5.5.1. To retain and compensate professionals, including, but not limited
7 to attorneys, accountants, real estate brokerage firms, and other advisors.

8 5.5.2. To list any and all real or personal property for sale in appropriate
9 markets and to pay brokerage commissions.

10 5.5.3. To investigate the nature and extent of any secured claims against
11 any real or personal property.

12 5.5.4. To liquidate 100% of the Debtors' property, unless the Debtor is
13 successful in preventing liquidation by either asserting a valid claim of exemption or purchasing
14 the property from the Trustee at then current market value of such property, and to pay the costs
15 of any asset sale.

16 5.5.5. To investigate the validity, nature and extent of all claims against
17 the Debtor.

18 5.5.6. To object, challenge or otherwise administer all claims against the
19 Debtor.

20 5.5.7. To investigate, prosecute, and compromise, in the Debtors' names,
21 any and all causes of action belonging to the Debtors' or this Estate, under applicable local, state
22 or federal laws.
23

1 5.5.8. To create and execute such documentation as may be required or
2 reasonably necessary to fulfill the purposes of the Trustee.

3 5.5.9. To take any and all further action that is consistent with the
4 intentions and purposes of this Plan and the Court's Order of Confirmation.

5 **ARTICLE VI - PROVISIONS FOR SATISFYING CLAIMS AND SPECIFYING**
6 **TREATMENT OF EACH CLASS UNDER THE PLAN**

7 6. The treatment of all Allowed Claims are specified as follows:

8 6.1. Administrative Claims:

9 6.1.1. All holders of a Claim entitled to priority pursuant to § 507(a)(1)
10 of the Code shall receive on the later of (a) the Effective Date or (b) the date upon which an
11 order of the Court allowing such claim becomes a Final Order, cash in the amount of such
12 Allowed Claim unless the holder of such Claim agrees to different treatment, provided that fees
13 and costs of Professional Persons shall be subject to the approval of the Bankruptcy Court. The
14 foregoing priority shall include any and all Allowed Claims allowed under 11 U.S.C. §503
15 (b)(4).

16 6.1.2. All quarterly fees due to the United States Trustee pursuant to
17 28 U.S.C. § 1930(a)(6) will be paid in full on or before the Effective Date, as required by
18 11 U.S.C. § 1129(a)(12).

19 6.1.3. The payments required under the provisions of ¶ 6.1.1 and ¶ 6.1.2
20 above shall be made by the Trustee from the proceeds of liquidation on deposit in the Trust.

21 6.1.4. At the discretion of the Creditor, the alternate treatment of allowed
22 tax claims may be pursuant to § 1129(a)(9)(C) and paid from the post-petition personal earnings
23

1 of the Debtors, as monitored by the Trustee. The holders of such tax claims will not be stayed or
2 otherwise limited from seeking recovery from the Debtors personal earnings.

3 6.1.5. Allowed tax claims of governmental units entitled to priority
4 pursuant to §507(a)(8)(A) § 507(a)(8)(B) and § 507(a)(8)(D) of the Bankruptcy Code and not
5 otherwise included in any other class of the Plan shall be paid in an amount sufficient to fully
6 retire such claim on the later of (a) the Plan's Effective Date, (b) that date after the Plan's
7 Effective Date on which such claim is assessed, (c) the date on which such claim becomes an
8 Allowed Claim, or (d) the date when the Trust has adequate assets with which to make payment
9 of such Allowed Claim. Under the Plan, the interest rate on such tax claim shall be the federal
10 judgment rate in effect as of the Effective Date.

11 6.2. Secured Claims:

12 6.2.1. Class 1a (Internal Revenue Service): The Class 1a Allowed
13 Secured Claim is not impaired under this Plan. Unless the Creditor and the holder of the Class
14 1a Secured Claim otherwise agree to alternative treatment of the claim, the holder of the Class 1a
15 Allowed Secured Claim shall be paid and satisfied in accordance with the provisions of ¶ 6.2.2.
16 below.

17 6.2.2. The Trustee shall liquidate any and all property to which the Class
18 1a Allowed Secured Claim is attached. The amount due to the claimant, together with interest at
19 the federal judgment interest rate accrued from the petition date until the date of payment
20 hereunder, shall be paid from the lower of (a) the amount of net funds available from the sale of
21 such assets, or (b) the full amount due and owing. In the event there is no property to which the
22 claim in this Class 1a is attached, such claim shall be treated under the provisions of Class 2.
23

1 6.2.3. Class 1b (Bonner County): The Class 1b Allowed Secured Claim
2 is not impaired under this Plan. The Trustee shall liquidate any and all property to which the
3 Class 1b Allowed Secured Claim is attached. The amount due to the claimant, together with
4 interest at the federal judgment interest rate accrued from the petition date until the date of
5 payment hereunder, shall be paid from the lower of (a) the amount of net funds available from
6 the sale of such assets, or (b) the full amount due and owing. In the event there is no property to
7 which the claim in this Class 1b is attached, such claim shall be treated under the provisions of
8 Class 2.

9 6.2.4. Class 1c-1 through 1c-5 (Ford Motor Credit and any other Secured
10 Claims): The Class 1c-1 through Class 1c-5 claims are not impaired under this Plan. The
11 Trustee shall liquidate any and all property to which the Class 1c-1 through 1c-5 Allowed
12 Secured Claim(s) is attached, and if there are sufficient proceeds from the sale of such asset(s),
13 shall pay such claim in full together with interest at the lowest rate of allowed contractual, court
14 ordered or the federal judgment interest rate accrued from the petition date until the date of
15 payment hereunder or to the extent of such net proceeds, whichever payment amount is less. In
16 the event there is no property to which the claim in this Class 1c is attached, such claim shall be
17 treated under the provisions of Class 2.

18 6.2.4.1. In the event the Trustee elects to abandon any asset
19 referenced in paragraph 6.2.4, the Trustee shall abandon the collateral securing the claim to the
20 holder of such claim.

21 6.2.4.2. In the event any holder of any Secured Claim included in
22 a subclass of Class 1 votes in favor of the Plan, the Debtor shall waive any claims against such
23 holder, including but not limited to any avoidance claims under the provisions of the Bankruptcy

1 Code. In the event any holder of a Secured Claim included in any subclass of Class 1 votes
2 against the Plan, in accordance with the provisions of 11 U.S.C. § 1129(b), the Debtor requests
3 that the Court confirm the plan notwithstanding any rejection of the plan by the holder of such
4 Class 1 Secured Claim or subclass Class 1 Secured Claim.

5 6.3. Unsecured Priority Claims:

6 6.3.1. Class 2: Class 2 claims are not impaired under this Plan. At the
7 discretion of the Creditor, the alternate treatment of allowed tax claims may be pursuant to
8 §1129(a)(9)(C) and paid from the post-petition personal earnings of the Debtors, as monitored
9 and implemented by the Trustee. The holders of such tax claims will not be stayed or otherwise
10 limited from seeking recovery from the Debtors personal earnings. If the foregoing payment
11 option is not implemented by the Creditor and approved by the Order of Confirmation, allowed
12 Class 2 claims of governmental units entitled to priority pursuant to §507(a)(8)(A), §
13 507(a)(8)(B) and § 507(a)(8)(D) of the Bankruptcy Code and not otherwise included in any other
14 class of the Plan shall be paid in an amount sufficient to fully retire such claim on the later of (a)
15 the Plan's Effective Date, (b) that date after the Plan's Effective Date on which such claim is
16 assessed, (c) the date on which such claim becomes an Allowed Claim, or (d) the date when the
17 Trust has adequate assets with which to make payment of such Allowed Claim.

18 6.4. Unsecured Claims:

19 6.4.1. Class 3: The Class 3 Unsecured Claims are impaired under this
20 Plan. Payment of Allowed General Unsecured Claims shall occur as follows: The Trustee shall
21 liquidate all Estate assets and recover all other funds due the Estate, unless the Debtors invoke
22 the procedure for purchasing any asset, set forth below under paragraph 6.6 of this Plan. From
23 the proceeds of liquidation, the Trustee shall pay the Allowed Administrative, Secured Priority,

1 Secured and Unsecured Priority claims. The Trustee shall also ensure that the costs, fees and
2 expenses of the Trust and Trustee have been paid or fully reserved, in the Trustee's discretion. At
3 such time as the Trustee, in his/her sole discretion, determines there are adequate funds with
4 which to make a distribution, such distribution shall be made from all or any portion of available
5 funds on a pro-rata basis to Class 3 creditors. At such time as the Trustee has determined that all
6 Estate assets have been sold, and all monies recovered by the Estate, the Trustee, after making
7 payment in full of all other costs, fees and expenses of the Trust and Trustee, and paying all prior
8 claims, shall make a final distribution to all Class 3 creditors, pro rata, and then shall enter a
9 Notice closing the administration of the estate. In the event the Trust has funds that exceed the
10 amount needed to pay Class 3 claims in full, Class 3 claimants shall be entitled to be paid interest
11 on their claims at the federal judgment interest rate effective on the date of Confirmation,
12 accruing from the petition date until the date of payment.

13 6.5. Equity Claims:

14 6.5.1. Class 4: The Class 4 Equity Claims of the Debtors are impaired.
15 Payment of this class shall occur only if all prior classes, all Administrative expenses and all
16 Post-Confirmation fees and expenses are paid in full, with interest at the higher of the applicable
17 contract rate or the federal judgment interest rate.

18 6.6. Debtors' election to retain property:

19 6.6.1. The Debtors may elect to retain the property to which any Allowed
20 Secured Claim is attached subject to the following procedure:

21 6.6.1.1. The Debtors, at their sole expense, shall have the asset
22 appraised by a licensed appraiser or other appraiser approved by the Trustee, whose consent shall
23

1 not be unreasonably withheld. The asset shall be appraised to determine its then current fair
2 market value. The appraisal shall be furnished to the Trustee.

3 6.6.1.2. The Debtors shall be responsible for assuming in full, and
4 obtaining a release for the Estate, Trust and the Trustee from any claims of any secured creditor
5 whose lien attaches to the assets being purchased and is not otherwise being paid from the sale
6 proceeds.

7 6.6.1.3. The Debtors shall pay to the Trust, in cash, the full
8 amount of the differential between the market value of the asset plus the Trustee's actual fees
9 and costs incurred to facilitate such sale, less the amount(s) of any contractually assumed secured
10 claims, less any allowed applicable personal exemption.

11 **ARTICLE VII - TREATMENT OF DISPUTED CLAIMS AND INTEREST**

12 7. Disputed Claims and Interests shall be treated in the manner set forth below.

13 7.1. In calculating the cash to be distributed to Allowed Claims, all Disputed
14 Claims will be treated as if they were Allowed Claims in the full amount thereof; provided,
15 however, that the cash so allocated to Disputed Claims will not be distributed, but will be held by
16 the Trustee for the benefit of the holders of Allowed Claims ultimately entitled thereto.

17 7.2. At such time as a Disputed Claim becomes an Allowed Claim, and subject
18 to the plan treatment provisions for such Allowed Claim, the Trustee shall deliver to the holder
19 of the Allowed Claim the cash allocable to such Allowed Claim.

20 7.3. In determining the amount of a claim, any final, non-appealable order or
21 judgment entered by another court of competent jurisdiction setting the amount of such claim
22 shall be determinative as to the amount of such claim.
23

1 **ARTICLE VIII - MEANS FOR EXECUTION OF THE PLAN**

2 8. The Debtors, Debtor in Possession, and Trustee shall each perform or shall have
3 performed all acts required of them.

4 8.1. On Confirmation, all assets of the Estate shall be re-vested in the Debtors
5 solely for the purposes of title. The Debtors shall have no authority to take any action whatsoever
6 as to any Estate asset without the express written approval of the Trustee or pursuant to an Order
7 of the Court. The Debtors actions in derogation of this provision shall subject the Debtors to
8 appropriate sanctions, including a minimum cost of \$3,000 for any Order finding the Debtors, or
9 either of them, to have not complied with this provision or any term of the order confirming the
10 Plan. On the effective date, the Debtors shall transfer all funds in all accounts to the Trustee,
11 including but not limited to, funds held by any third parties on account of or in trust for the
12 Debtors. To the extent funds are available from the proceeds of Estate assets, the Trustee shall
13 make the payments required by the Plan, shall satisfy all Administrative Expense Claims, and
14 shall make all other payments required after the Effective Date; provided, however, that such
15 obligation shall not serve to make the Trust or the Trustee personally liable for any discharged
16 claims, including any claims which are Allowed Secured Claims.

17 8.2. Except as provided in ¶ 8.3 below, all rights, claims and causes of action,
18 whether equitable or legal, of the Estate, the Debtors, Debtors in Possession, and Trustee against
19 all persons, trusts or entities are reserved for evaluation and assertion by the Trustee. Following
20 confirmation the Trustee, in the name of the Debtors, may commence adversary proceedings or
21 lawsuits in applicable state or federal courts against persons or entities to realize upon causes of
22 action retained under the Plan. If the Trustee prosecutes or, where appropriate, settles and
23 compromises any actions transferred to it, then, after payment of all costs and legal fees, and

1 after determination of the Trust's interest in the net proceeds of such action(s), the Trust's share
2 of such net proceeds of such action(s) shall be deposited and administered by the Trustee
3 pursuant to the provisions of the Confirmed Plan.

4 8.3. All rights, claims and causes of action, whether equitable or legal, of the
5 Estate, the Debtors, Debtors in Possession, and Trustee against all persons, trusts or entities
6 arising under Chapter 5 of the Bankruptcy Code, under State or Federal law for the recovery of
7 avoidable fraudulent conveyances or other transfers shall be transferred to the Trustee on the
8 Confirmation Date. Following Confirmation, the Trustee, in the name of the Debtors, may
9 commence adversary proceedings against persons or entities to realize upon any causes of action
10 transferred under the plan. If, in the best interests of the Estate, the Trustee prosecutes or, where
11 appropriate, settles and compromises, any actions reserved to it, then all available net proceeds
12 (after the payment of all costs and legal fees and funding of the Priority Creditor Dividend Fund)
13 of such actions shall be deposited into Trust.

14 8.4. The Trustee, in the name of the Debtors, shall resolve the claims of all
15 creditors and interest holders.

16 8.5. Any objection to a claim by a party in interest in the Reorganization Case
17 must be filed on or before sixty (60) days following the Confirmation Date unless said time
18 period is extended by the Bankruptcy Court for cause shown, provided, however, that the
19 foregoing limitation does not apply to any claims filed subsequent to Confirmation.

20 8.6. Pursuant to § 347(b) of the Bankruptcy Code, ninety (90) days after any
21 distribution by the Trustee, the Trustee shall stop payment on any such check remaining unpaid
22 to a holder of an Allowed Claim and funds shall be returned to the payor for use or
23 redistribution. From and after the date the Trustee stops payment on any distribution check

1 pursuant to this paragraph, the holder of the claim on account of which such check was issued
2 shall be entitled to receive no further distributions on account of his claim and such holder's
3 Allowed Claim shall thereupon be deemed satisfied in full.

4 8.7. The deadline for submission of all claims entitled to priority pursuant to
5 §§ 507(a)(1), (a)(2) and (b) of the Bankruptcy Code incurred prior to Confirmation, with the
6 exception of fees and costs of Professional Persons and Post-confirmation Expenses shall be
7 thirty (30) days following Confirmation. Failure to file a claim by this date shall conclusively
8 bar the claimant from asserting its Claim, which Claim shall be forever barred from sharing in
9 the distributions under the Plan.

10 8.8. Any negotiable instrument held by the holder of an Allowed Claim shall
11 be deemed exchanged, paid, canceled, or satisfied, as the case may be, on the Effective Date.

12 8.9. The Trustee, subject to the provisions of Article VI, shall distribute all
13 funds held in accordance with the provisions of this Plan.

14 8.10. From and after the Confirmation Date, the unpaid balance of any Secured
15 Claim shall bear simple interest at the rates set forth in this Plan, unless the Court establishes,
16 after notice and a hearing, a different Plan Interest Rate with respect to that Secured Claim. The
17 holder of any Secured Claim shall, within the same deadline and in the same manner established
18 for objections to confirmation, file any objection it may have to the proposed interest rate,
19 identify the proposed alternative rate, and set forth the facts and circumstances justifying such
20 rate. At any hearing the court may fix the applicable Plan Interest Rate so as to provide the
21 holder of any objecting claim holder with the present value of its claim within the meaning of 11
22 U.S.C. § 1129(b). Failure to object to the proposed interest rate shall be deemed to be consent
23 thereto.

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**ARTICLE IX - EXECUTORY CONTRACTS AND
UNEXPIRED LEASES**

9. All executory contracts and unexpired leases of the Debtor not assumed or rejected by the Debtors or by the term of the Order of Confirmation, shall be rejected by the Order of Confirmation. Any claim arising from the rejection of an executory contract shall be Class 3 claim and any entity holding a claim based upon the rejection of an executory contract or an unexpired lease pursuant to this Article must file a proof of claim with the Bankruptcy Court within 30 days after Confirmation. The failure of any such entity to file a proof of claim within the specified time period will result in the disallowance of such claim.

**ARTICLE X - SATISFACTION OF INDEBTEDNESS
AND INJUNCTION**

10. The distribution made to the various Classes of creditors as provided for in this Plan shall be full and complete satisfaction of their Allowed Claims. Unless otherwise Ordered by the Court, confirmation shall operate as a discharge of any and all debts and claims as defined in Section 101(4) of the Bankruptcy Code against the Debtors or Debtors in Possession that arose at any time prior to Confirmation. Except as expressly provided in the Plan, all holders of any claim against the Debtors or Debtors in Possession shall be enjoined (pursuant to 11 U.S.C. §1141) from collecting any claims or pursuing any cause of action against the Reorganized Debtors, with respect to any claim or cause of action assertable against the Debtors, Debtors in Possession or Reorganized Debtors. Such injunction shall be effective as to each claim, regardless of whether or not (a) the claim was scheduled, (b) a proof of claim was filed, (c) the claim is an Allowed Claim, or (d) the holder thereof voted to accept the Plan. In the event any creditor procures from the Court a final order determining that such creditor's claim(s) is not

1 dischargeable, such creditor shall receive treatment of its claim as set forth in this Plan, but shall
2 otherwise be enjoined from pursuing estate assets. The foregoing limitation shall not prevent a
3 creditor holding a non-dischargeable claim from pursuing other assets of the Debtors' that do not
4 constitute property of the estate, such as non-exempt post-petition personal earnings of the
5 Debtors.

6 **ARTICLE XI - MODIFICATIONS OF THE PLAN**

7 11. Pursuant to the provisions of § 1127 of the Bankruptcy Code and Bankruptcy
8 Rule 3019, the Creditor reserves the right to modify or alter the provisions of the Plan at any
9 time prior or subsequent to Confirmation.

10 **ARTICLE XII - RETENTION OF JURISDICTION BY** 11 **THE BANKRUPTCY COURT**

12 12. Notwithstanding Confirmation, until entry of the Closing Order, the Bankruptcy
13 Court shall retain jurisdiction to ensure that the purposes and intent of the Plan are carried out.
14 Without limiting the generality of the foregoing, the Court shall retain jurisdiction for the
15 following purposes:

16 12.1. Examining any issue pertaining to the Trustee's administration of the
17 Confirmed Plan;

18 12.2. Fixing and allowing a claim as a cost and expense of the administration of
19 the Reorganization Case;

20 12.3. Reexamining any claim that has been allowed;

21 12.4. Hearing and determining any objection to a claim or interest, and
22 continuing to hear or consider any pending adversary proceeding, including claims objecting to
23 the discharge of the Debtors. The failure of the Debtors or any other party in interest to object

PLAN OF REORGANIZATION - 19

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1 to, or to examine any claim or equity security interest for the purpose of voting, shall not be
2 deemed to be a waiver of the Debtors' or the Trustee's right to object to, or re-examine any claim
3 or equity security interest in whole or in part;

4 12.5. Hearing and determining any action brought by the Trustee, Debtors or
5 Debtors in Possession seeking to avoid the transfer of an interest of the Debtors in property, or
6 any obligation incurred by the Debtors, that is avoidable pursuant to applicable law;

7 12.6. Hearing and determining all causes of action, controversies, disputes, or
8 conflicts between or among the Debtors, any creditors, the Trustee and/or any other party,
9 including those that were pending prior to Confirmation;

10 12.7. Hearing and determining all questions and disputes regarding title to the
11 property of the Debtors or the Estate;

12 12.8. Correcting any defect, curing any omission, or reconciling any
13 inconsistency in the Plan or the Order of Confirmation as may be necessary to carry out the
14 purpose and intent of the Plan;

15 12.9. Hearing and determining any action brought by the Debtors or the Trustee
16 to protect the Debtors and the Estate from actions of creditors, equity security holders, or other
17 parties in interest;

18 12.10. Issuing any order necessary to implement the Plan or Order of
19 Confirmation, including, without limitation, such declaratory and injunctive orders as are
20 appropriate to protect the Trustee, Debtors, the Estate and the Reorganized Debtors from actions
21 of creditors, equity security holders, or other parties in interest;

12.11. Hearing and determining any dispute relating to the terms or
implementation of the Plan or Order of Confirmation, or to the rights or obligations of any
parties in interest with respect thereto;

12.12. The modification of the Plan after Confirmation pursuant to the
Bankruptcy Rules and the Bankruptcy Code in accordance with Article XI above;

12.13. Entering orders concluding and terminating the Reorganization Case;

DATED this 31st day of December 2002.

By Frederick A. Leaf
Frederick A. Leaf, M.D.

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